

Item 28/28a

Bill of Rights

My draft decision in the bill of rights proceeding recognizes the incredible pace of changes occurring in the telecommunications industry. In fact, the pace in this proceeding also shaped my thoughts as this document was being written. Those in the audience familiar with our numbering system, understand that R.00-02-004 means that this rulemaking was started six years ago last month. A six-year process is at odds with the almost daily change in the telecommunications world.

I therefore set my focus upon items to which we as a Commission can provide helpful action that will not suffer from similar delay. In short, we can provide timely information to educate consumers and we can act promptly to enforce our rules. These basic principles will stand the test of time even as the telecommunications market continues to evolve from a highly regulated, monopoly-provided system to a much more open, competitive system facing inter-modal competition.

This Commission has long supported using the power of market forces whenever possible in lieu of Commission edict. Even imperfect markets usually produce much better results than command and control regulation. We are seeing clear signs that the telecommunications market is competitive. As the decision

notes, by 2004 the number of wireless “lines” exceeded the number of access lines for wireline service. Additionally, we are all aware that there are indeed people who have “cut the cord”. In other words, they have cell phones but no landline phone. This is not just a theory; this is today’s reality. Voice over Internet Protocol (aka VOIP) is not as pervasive as cell phones but the decision cites one estimate that by the end of the year, 24%- 40% of international traffic will be completed by VOIP. The number of VOIP users grows larger by the day. As you know, this Commission is encouraging the use of VOIP by requiring naked DSL. The result of this policy is that if someone wants to use VOIP in place of a landline voice service, that customer will not need to buy the voice service bundled with the DSL service; instead the customer can purchase just the DSL service.

It is with this background of an evolving, competitive market that I shaped the draft decision. Consumers need to know their choices and they need to know the critical questions to ask to fully benefit from the competitive market. Therefore the decision launches a new consumer education program directed by Commission staff. There are three prongs to this program. The first prong is a broad-based information campaign to inform all consumers in the face of the complex and ever-changing array of telecommunications choices. The second prong is designed to

inform consumers of their rights including facilitating public access to our rules. The third prong focuses on informing customers who are non-English speaking, seniors, disabled or low-income. We plan on working closely with Community Based Organizations to help educate these targeted communities.

The bookend to increased education is increasing our enforcement activities. The decision mentions a host of tactics to improve upon our enforcement efforts. We will expand on efforts both informally and formally. I will mention just a few of the additional tactics we will employ.

We also plan to create a Telecommunications Consumer Fraud Unit within CPSD. We are requesting nine employees to staff this new unit that will be charged with investigating, documenting, and resolving allegations of fraud. Our existing toll-free number will be expanded to receive allegations of fraud. These calls will receive priority attention.

We will increase our level of cooperation with local (and state) law enforcement personnel. The Attorney General and local District Attorneys are the principle enforcers of general anti-fraud laws, Civic Code Sections 17200 and 17500, as well as the Criminal Code. The decision notes that remedies under the Unfair Competition Law are cumulative and in addition to any action under the PU Code.

Similar to working with local (and state) law enforcement, we will also work with federal agencies such as the Federal Trade Commission and the Federal Communications Commission.

One other enforcement step is to streamline enforcement proceedings. We will consider implementing a citation process similar to one we have for transportation regulation.

Let me highlight one section of the decision. The decision calls for an expansion of our call center. I am disappointed to announce that our current call hours are only from 10:00 A.M. to 3:00 P.M. These hours need to be expanded. The decision would double the number of operating hours by having the center open from 8:00 A.M. to 6:00 P.M. We have a budget request for twenty call center personnel, thirteen of whom are to be bilingual speakers. It seems to me that this expansion of our call center will actually help achieve both increased customer education as well as helping in our enforcement efforts.

Let me clear up a misconception of my draft decision. There are misguided statements that say there are no rules that will be enforced; instead there are empty principles. This is utterly untrue. Appendix D is 19 pages long. In table format, it lists all the current statutes and regulations at both the federal and state level. A review of these rules will show that they are quite comprehensive. These rules, especially those found in the Public

Utility Code, are what our increased enforcement activities will focus upon. It would be more accurate to state that the draft decision does not create any new rules.

This is true. The reason is that there was not sufficient evidence to create a new rule. Complaint data, survey data, enforcement actions, and anecdotal evidence all suffer from serious infirmities and thus do not satisfy the burden of proof to cause the creation of a new rule. While imposing new rules may carry no costs for this Commission, there are consequences. First, there are costs to comply with a new rule. Most likely, this cost will eventually be borne by the consumer. Second, a rule may force a competitor out of the market. We received testimony that a rural carrier would exit the California market rather than bear the costs to comply with a requirement of a minimum ten-point font. (This requirement was suspended with D. 05-01-058.) Third, an ill-conceived rule can create confusion. For example, a rule requiring “key rates, terms and conditions” to be highlighted seems reasonable except for the fact that the phrase “key rates, terms and conditions” was not defined in a clear way. This rule could be safely satisfied by simply highlighting everything in a bill or contract. In summary, simply creating a new rule can cause more harm than good.

I would like to thank all the numerous people that worked on this proceeding. However, because this proceeding took over six years, there are just too many to thank. I would like to acknowledge one person though and that person is Margie Lezcano. She worked on all the iterations of this document and kept it looking good. We often overlook our staff in the legal steno pool which we call the STAR unit. Thank you Margie, you are truly a star.

I move Item 28 and ask for your support. At this time, I turn to Commissioner Grueneich to have her introduce her alternate.